

MEMORANDUM OF UNDERSTANDING REGARDING SHORT-TERM CATEGORY III ACTIVITIES

WHEREAS, representatives of the State and Federal governments and the urban, agricultural and environmental communities agreed, on December 15, 1994, to a statement of "Principles for Agreement on Bay-Delta Standards" (the "Statement of Principles") which Statement includes the implementation of so-called "Category III measures"; and

WHEREAS, the Statement of Principles commits the State and Federal Governments and agricultural, urban and environmental interests to the implementation and financing of Category III measures (estimated to require a financial commitment of Sixty Million Dollars [\$60,000,000] per year) as an essential part of a comprehensive ecosystem protection plan for the Bay-Delta; and

WHEREAS, the program of Category III measures is focused upon improving specific non-outflow-related factors including, but not limited to: unscreened water diversions in the Sacramento-San Joaquin Delta Estuary ("Bay Delta"), along the Sacramento and San Joaquin Rivers and other locations; waste discharge control and pollution prevention; legal fishing (sport and commercial); illegal fishing (poaching); land-derived salts; exotic species; riparian, wetland and estuarine habitat restoration; and Delta channel alterations/local land-use modifications; and

WHEREAS, the "Principles for Implementation of Category III" incorporated into the Statement of Principles provide for funding of Category III activities to be secured through a combination of new federal and state appropriations, user fees, and other sources as well as possible reprioritization of existing funding; and

WHEREAS, the Principles for Implementation of Category III provide that the Bay-Delta water user community agrees to make available an initial financial commitment of ten million dollars (\$10,000,000) annually for three years towards funding Category III activities, and the Metropolitan Water District of Southern California agreed to guarantee the initial annual financial commitment for water user funding of Category III activities described in the Statement of Principles; and

WHEREAS, it was agreed in the Statement of Principles that urban and agricultural water suppliers will work with State and Federal agencies and environmental interests concerned with the Bay-Delta in an open process to determine precise priorities and financial commitments for the implementation of all Category III activities; and

WHEREAS, the parties to this Memorandum of Understanding wish to provide for an interim mechanism that will develop and recommend a permanent structure to manage the Category III program in the long-term and that will hold and disburse initial commitments of Category III funds until the permanent structure can be developed and implemented.

NOW, THEREFORE, IT IS AGREED by the undersigned that:

1. On February 15, 1995, the Metropolitan Water District of Southern California deposited Ten Million Dollars (\$10,000,000.00) for the exclusive purpose of funding Category III measures, as an initial contribution towards a fund established for the purpose of funding Category III measures.
2. Subject to the availability of necessary appropriations or approvals, the parties to this Memorandum of Understanding may contribute additional initial financing for Category III activities, (1) by contributing to a Category III fund established for that purpose or (2) by funding specific Category III projects approved by the Steering Committee described hereinafter. The Steering Committee (or its successor once a mechanism for long-term implementation is established) will develop a process for crediting all initial contributions made pursuant to paragraph 1 and this paragraph toward longer-term Category III financial responsibilities.
3. The Metropolitan Water District of Southern California ("Metropolitan") shall act as Treasurer of the Category III Fund pursuant to the terms of this Memorandum of Understanding unless and until replaced by another party or until termination of this Memorandum of Understanding. For this purpose, Metropolitan shall maintain a separate account designated as the "Category III Fund," which account shall be open for inspection upon reasonable notice by any of the signatories of this Memorandum.
4. All of the signatories hereto, whether Federal, State, agricultural, urban or environmental, shall utilize their best efforts to identify sources of funds and obtain funding for the support of Category III activities.
5. An interim Category III Steering Committee ("Steering Committee") shall be established upon completion of a Category III Implementation Plan. The Steering Committee shall reflect the interests of each of the following groups: CALFED, with a total of six representatives; the environmental community, with a total of two representatives; the fishing community, with a total of two representatives; and the Ag/Urban community, with a total of four representatives. Each group shall separately be responsible on an ongoing basis for determining the composition of its representation on the Steering Committee. The Steering Committee shall have the power to develop and recommend a permanent institutional framework for the implementation of the Category III program. It also shall have the power to carry out the Category III Implementation Plan in the interim, including the power to approve Category III measures pending the establishment of a permanent institutional framework and to determine whether funds will be committed for the implementation of such projects. The Steering Committee shall reach decisions that reflect the consensus of all its members.

6. To facilitate the carrying out of its responsibilities, the Steering Committee shall form an Advisory Committee. The Advisory Committee shall be broad based, comprised of individuals possessing specialized knowledge of the Bay-Delta including its hydrology and its aquatic resources. The Advisory Committee is intended to recommend subject to Steering Committee concurrence, expenditures from the Category III Fund for early implementation of projects.
7. The parties hereto, in cooperation with other interested parties, intend to promptly establish a permanent mechanism to manage the full Category III programs on a long-term basis. Accordingly, it is anticipated that the administrative mechanism provided herein will be superseded by an alternative administrative mechanism intended to operate over the longer term. The Steering Committee provided for herein shall have the power to transfer funds collected hereunder to such administrative mechanism.
8. Category III funding issues will be addressed by a policy-level sub-committee convened expressly for that purpose. Among other things, this sub-committee shall address the identification of incentives to contribute to the Category III Fund established by Metropolitan and the development of mechanisms to allocate Category III funding responsibilities. The Steering Committee and/or the long-term Category III structure will be guided by the policy sub-committee's resolution of these issues.

This Memorandum of Understanding shall remain in full force and effect until superseded by the long-term arrangement referred to in paragraph 7 or until any of the parties wishes to terminate their participation by providing written notice to all of the undersigned parties or their attorneys. However, the termination by any one party shall not invalidate this Memorandum as to any party not tendering its own independent notice of termination.

DATED: _____, 1995

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